

AMENDED IN SENATE JULY 1, 2005

SENATE BILL

No. 1015

Introduced by Senator Romero

(Principal coauthor: Assembly Member Parra)

(Coauthor: Senator Poochigian)

(Coauthor: Assembly Member La Suer)

February 22, 2005

~~An act to amend Section 13955 of the Government Code, to amend Sections 667.5, 1192.7, and 13519.8 of the Penal Code, to amend Sections 2800.1, 2800.2, 2800.3, and 17004.7 of, and to add Sections 1666.1, 2911, and 17005 to, the Vehicle Code, relating to vehicle pursuits, and making an appropriation therefor. An act to add Chapter 5.7 (commencing with Section 8400) to Division 1 of Title 2 of, and to repeal Section 12016 of, the Government Code, to add Section 830.15 to the Penal Code, and to amend Section 5066 of the Vehicle Code, relating to homeland security.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as amended, Romero. ~~Vehicle pursuits.~~ *Office of Homeland Security.*

(1) Existing law requires the Governor to appoint a Director of Homeland Security to coordinate homeland security activities in the state, and to appoint a deputy director of homeland security to serve at the pleasure of the director. Existing law sets forth certain duties of an Office of Homeland Security in state government.

This bill would repeal the provisions requiring the appointment of the Director of Homeland Security and the deputy director. It would instead establish the Office of Homeland Security in the office of the Governor, with specified duties with regard to the coordination and oversight of homeland security activities in the state, under the

direction of a Director of Homeland Security appointed by the Governor, with specified authority and duties.

(2) Existing law authorizes the Attorney General to furnish specified summary criminal history information to certain peace officers of the state, subject to specified conditions.

This bill would specify that persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information, and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security, are peace officers of the state for these purposes.

(3) The California Public Records Act specifies that certain security, investigatory, and other information of certain law enforcement entities is not subject to disclosure.

This bill would specify that the Office of Homeland Security is a law enforcement organization as required for receipt by employees of the office of confidential intelligence information pursuant to these provisions.

(4) Existing law requires that ½ of certain revenues derived from the issuance, renewal, transfer, and substitution of California memorial license plates and deposited into the Antiterrorism Fund, be allocated by the Controller, upon appropriation by the Legislature, to the Office of Criminal Justice Planning to be used solely for antiterrorism purposes.

This bill instead would require that one half of these funds be allocated by the Controller, upon appropriation by the Legislature, to the Office of Homeland Security for these purposes.

~~Existing law provides for compensation to crime victims, as specified, from the Restitution Fund, a continuously appropriated fund.~~

~~This bill would include as qualifying as a crime victim for those purposes, injury or death caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.~~

~~By expanding the uses of a continuously appropriated fund, this bill would make an appropriation.~~

~~Existing law, as amended by initiative, provides for sentencing enhancements for certain crimes categorized as “serious felonies.”~~

~~Existing law permits amendment of these provisions by a 2/3 vote of the Legislature:~~

~~This bill would add to the list of serious felonies, the offense of willful flight or attempt to elude a pursuing peace officer, while operating a motor vehicle, and causing death or serious injury, as specified.~~

~~By amending provisions of an initiative statute, this bill would require a 2/3 vote of the Legislature.~~

~~Existing law, as amended by initiative, provides for sentencing enhancements for certain crimes categorized as “violent felonies.” Existing law permits amendment of these provisions by a 2/3 vote of the Legislature:~~

~~This bill would add to the list of violent felonies, the offenses of willful flight or attempt to elude a pursuing peace officer, while operating a motor vehicle, or doing the same with willful or wanton disregard for the safety of persons or property, as specified.~~

~~By amending provisions of an initiative statute, this bill would require a 2/3 vote of the Legislature.~~

~~Existing law requires the Commission on Peace Officer Standards and Training to implement a course or courses of instruction for the training of law enforcement officers in the handling of high-speed vehicle pursuits and to develop uniform, minimum guidelines for adoption by California law enforcement agencies for response to high-speed vehicle pursuits, as specified. Existing law provides that adoption and implementation of a pursuit policy with those guidelines as a minimum for the agency’s pursuit policy is discretionary.~~

~~This bill would make adoption and implementation of a pursuit policy, as specified, mandatory for law enforcement agencies.~~

~~By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.~~

~~Existing law specifies certain content for examinations for a driver’s license:~~

~~This bill would require the Department of Motor Vehicles to include at least one question in each test of an applicant’s knowledge and understanding to verify that the applicant has an understanding of the risks and punishments associated with eluding a pursuing peace officer’s motor vehicle.~~

~~Existing law provides that any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise~~

attempts to elude a pursuing peace officer's motor vehicle, and certain conditions exist, is guilty of a misdemeanor.

~~This bill would increase the punishment for a violation to imprisonment in a county jail not exceeding one year, or in the state prison. The bill would also provide that any person who violates those provisions and who has a prior conviction for violating those provisions would be punishable as a felony.~~

~~By increasing the burden on local jail facilities and on local prosecutors, this bill would impose a state-mandated local program.~~

~~Existing law provides that if a person flees or attempts to elude a pursuing peace officer, as specified, and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, or by confinement in the county jail for not less than 6 months nor more than one year. The court may also impose a fine of not less than \$1,000 nor more than \$10,000, or may impose both that imprisonment or confinement and fine.~~

~~This bill would increase the penalty to imprisonment in the state prison for 3, 5, or 7 years, and would eliminate the provisions authorizing imposition of a fine.~~

~~By increasing the burden on local prosecutors, this bill would impose a state-mandated local program.~~

~~Existing law provides that whenever willful flight or attempt to elude a pursuing peace officer, as specified, proximately causes death or serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for 3, 4, or 5 years, by imprisonment in the county jail for not more than one year, or by a fine of not less than \$2,000 nor more than \$10,000, or by both that fine and imprisonment.~~

~~This bill would increase the penalty to imprisonment in the state prison for 5, 7, or 9 years, and would eliminate the provisions authorizing imposition of a fine.~~

~~By increasing the burden on local prosecutors, this bill would impose a state-mandated local program.~~

~~Existing law establishes the California Traffic Safety Program, to include state and local programs, as specified.~~

~~This bill would require all traffic safety programs that receive state funds and that include public awareness campaigns involving emergency vehicle operations to include in public awareness campaign, information on the risks to public safety of peace officer~~

~~motor vehicle pursuits, and the penalties that may result from evading a peace officer.~~

~~Existing law provides that any public agency employing peace officers which adopts a written policy on vehicular pursuits, as specified, shall be immune from liability for civil damages for personal injury to or death of any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is being or has been, pursued by a peace officer employed by the public entity in a motor vehicle. Existing law makes adoption of a vehicle pursuit policy pursuant to these provisions discretionary.~~

~~This bill would make adoption and training pursuant to a vehicle pursuit policy mandatory, as specified, and would expand the items to be addressed by the policy, thereby imposing a state-mandated local program.~~

~~This bill would also provide that in all situations where a peace officer is operating a motor vehicle in an effort to apprehend a suspect and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer, the suspect would be strictly liable for the personal injury or death of any person, or damage to any property, resulting from the suspect's attempt to avoid capture.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: ~~yes-no~~.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Chapter 5.7 (commencing with Section 8400) is*
- 2 *added to Division 1 of Title 2 of the Government Code, to read:*

CHAPTER 5.7. OFFICE OF HOMELAND SECURITY

8400. (a) *There is in the office of the Governor the Office of Homeland Security. The mission of the office shall be to develop and coordinate the implementation of a comprehensive state strategy to coordinate security activities throughout the state to prevent, deter, and mitigate acts of terrorism, including, but not limited to, grants, operations, training and exercises, information analysis, critical infrastructure protection, and planning and research.*

(b) *For purposes of this chapter, “homeland security” includes all of the following:*

- (1) The prevention of terrorist attacks within the state.*
- (2) The reduction of the vulnerability of the state to terrorism.*
- (3) Minimizing the damage to, and assisting in the recovery of, the state from terrorist attacks that occur within this state or the United States.*

8401. *The office shall be headed by a director, to be known as the Director of Homeland Security, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor. The director shall be the individual primarily responsible for coordinating security efforts of all departments and agencies in the state and shall be the principal point of contact for and to the Governor with respect to coordination of these efforts. The director shall have the authority of a head of a department as provided by law.*

8402. *The office shall have all of the following duties and responsibilities:*

(a) *Coordinating homeland security activities throughout the state.*

(b) *Coordinating the activities of all state agencies pertaining to homeland security issues, including, but not limited to, all legislative issues, contact with federal and local agencies, training, exercises, public outreach activities, critical infrastructure protection, information analysis and threat protection, and planning and research.*

(c) *Coordinating and approving all activities between state agencies and federal agencies on topics related to terrorism, including coordinating and approving all state requests for federal funds designated for homeland security activities,*

1 *developing guidelines for those state requests, and approving the*
2 *distribution of any federal funds allocated to the state.*

3 *(d) Serving as the principal point of contact for and to the*
4 *Governor with respect to the federal Department of Homeland*
5 *Security and all other federal and state agencies and the*
6 *Legislature, on matters relating to terrorism and homeland*
7 *security.*

8 *(e) Coordinating the review and assessment of the California*
9 *Homeland Security Strategy, and coordinating the amendment*
10 *and submission of the plan to the Governor for approval.*

11 *(f) Assigning specific state security functions to state agencies*
12 *consistent with the duties and responsibilities identified in the*
13 *California Homeland Security Strategy. These assignments may*
14 *be made by administrative order issued by the director.*

15 *8403. (a) The director may appoint staff necessary for the*
16 *support of the office pursuant to the State Civil Service Act (Part*
17 *2 (commencing with Section 18500) of Division 5).*

18 *(b) The director shall respond to and investigate complaints*
19 *regarding actions of employees of the office.*

20 *8404. All state agencies shall assist the Office of Homeland*
21 *Security and the director in carrying out the purposes of this*
22 *chapter and the functions of the office.*

23 *8405. (a) Notwithstanding Section 7550.5, the office shall*
24 *submit an annual report to the Legislature. This report, which*
25 *shall be a public record and shall be posted on the office's Web*
26 *site, shall include the following:*

27 *(1) A review of the activities of the office and of state and local*
28 *government agencies during the previous year in the area of*
29 *homeland security.*

30 *(2) A review of activities involving the activities of the office in*
31 *the area of homeland security during the previous year that*
32 *resulted in complaints of violations of constitutional rights of*
33 *privacy, free speech and expression, equal protection, or due*
34 *process.*

35 *(3) A list of the state and local law enforcement entities*
36 *participating in Regional Threat Assessment Centers, a review of*
37 *the memoranda of understanding signed by the office governing*
38 *their participation, and the costs of that participation.*

39 *(b) Notwithstanding Section 7550.5, the office, in*
40 *collaboration with the State Department of Health Services, shall*

1 report to the Chairperson of the Joint Legislative Budget
2 Committee and the chairpersons of the budget and policy
3 committees of each house of the Legislature on or before
4 February 1, 2006, a statewide strategic plan for the use of
5 federal homeland security and bioterrorism funds by all
6 departments and local jurisdictions. The plan shall include the
7 state's goals and objectives for improving the state's level of
8 preparedness for a terrorism event, which is based on an
9 assessment of the state's level of preparedness and reflects a
10 coordination of preparedness activities at the state and local
11 level.

12 (c) Notwithstanding Section 7550.5, the office, in
13 collaboration with the State Department of Health Services, shall
14 annually report to the Chairperson of the Joint Legislative
15 Budget Committee, and the chairperson of the budget committees
16 of each house of the Legislature on or before January 10 its
17 expenditures of federal homeland security and bioterrorism
18 funds. This report shall include all of the following:

19 (1) Descriptions of the grant expenditures and coordination
20 activities at the state and local level that have occurred over the
21 past year.

22 (2) How those activities met the state's strategic goals and
23 objectives.

24 (3) The funding amounts awarded to local jurisdictions and
25 specific departments.

26 (4) The funding levels by grant and grant year that have been
27 expended, encumbered, and unencumbered.

28 (5) Any challenges that the departments or local jurisdictions
29 encountered that hindered the expenditure of these funds.

30 (6) The areas of focus for the upcoming year.

31 SEC. 2. Section 12016 of the Government Code is repealed.

32 ~~12016. (a) The Governor shall appoint, to serve at his or her~~
33 ~~pleasure, an executive officer who shall be Director of Homeland~~
34 ~~Security. The Director of Homeland Security shall be in charge~~
35 ~~of homeland security and shall be the state coordinator of all~~
36 ~~homeland security activities, including, but not limited to,~~
37 ~~homeland security strategy, information analysis related to~~
38 ~~terrorism, and protection of critical infrastructure from terrorism.~~

39 ~~(b) The Governor shall also appoint one deputy director of~~
40 ~~homeland security who shall serve at the pleasure of the director.~~

1 ~~The salaries of the director and deputy director shall be fixed in~~
2 ~~accordance with law.~~

3 *SEC. 3. Section 830.15 is added to the Penal Code, to read:*

4 *830.15. (a) Persons described in subdivision (d) are not*
5 *peace officers but shall be included as “peace officers of the*
6 *state” under paragraph (2) of subdivision (c) of Section 11105*
7 *for the purpose of receiving state summary criminal history*
8 *information, and shall be furnished that information on the same*
9 *basis as peace officers of the state designated in paragraph (2) of*
10 *subdivision (c) of Section 11105.*

11 *(b) Persons described in subdivision (d) shall not exercise the*
12 *powers of arrest for a peace officer as specified in Section 386,*
13 *nor the power to serve warrants as specified in Sections 1523*
14 *and 1530, during the course and within the scope of their*
15 *employment.*

16 *(c) Notwithstanding any other provision of law, persons*
17 *described in subdivision (d) may not carry firearms.*

18 *(d) This section applies to persons employed within the Office*
19 *of Homeland Security whose duties and responsibilities require*
20 *the authority to access criminal history and other intelligence*
21 *information, and who have been cleared to do so by both the*
22 *state Department of Justice and the United States Department of*
23 *Homeland Security.*

24 *(e) The Office of Homeland Security shall be considered a law*
25 *enforcement organization as required for receipt by these*
26 *persons of confidential intelligence information pursuant to*
27 *subdivision (f) of Section 6254 of the Government Code.*

28 *SEC. 4. Section 5066 of the Vehicle Code is amended to read:*

29 *5066. (a) The department shall, in conjunction with the*
30 *California Highway Patrol, design and make available for*
31 *issuance pursuant to this article the California memorial license*
32 *plate. Notwithstanding Section 5060, the California memorial*
33 *license plate may be issued in a combination of numbers or*
34 *letters, or both, as requested by the applicant for the plates. Any*
35 *person described in Section 5101 may, upon payment of the*
36 *additional fees set forth in subdivision (b), apply for and be*
37 *issued a set of California memorial license plates.*

38 *(b) In addition to the regular fees for an original registration or*
39 *renewal of registration, the following additional fees shall be*
40 *paid for the issuance, renewal, retention, or transfer of the*

1 California memorial license plates authorized pursuant to this
2 section:

3 (1) For the original issuance of the plates, fifty dollars (\$50).

4 (2) For a renewal of registration of the plates or retention of
5 the plates, if renewal is not required, forty dollars (\$40).

6 (3) For transfer of the plates to another vehicle, fifteen dollars
7 (\$15).

8 (4) For each substitute replacement plate, thirty-five dollars
9 (\$35).

10 (5) In addition, for the issuance of an environmental license
11 plate, as defined in Section 5103, the additional fees prescribed
12 in Sections 5106 and 5108 shall be deposited proportionately in
13 the funds described in subdivision (c).

14 (c) The department shall deposit the additional revenue
15 derived from the issuance, renewal, transfer, and substitution of
16 California memorial license plates as follows:

17 (1) Eighty-five percent in the Antiterrorism Fund, which is
18 hereby created in the General Fund.

19 (A) Upon appropriation by the Legislature, one-half of the
20 money in the fund shall be allocated by the Controller to the
21 Office of ~~Criminal Justice Planning~~ *Homeland Security* to be
22 used solely for antiterrorism activities. The office may not use
23 more than 5 percent of the funds appropriated to it for
24 administrative purposes.

25 (B) Upon appropriation by the Legislature in the annual
26 Budget Act or in another statute, one-half of the money in the
27 fund shall be used solely for antiterrorism activities.

28 (2) Fifteen percent in the California Memorial Scholarship
29 Fund, which is hereby established in the General Fund. Moneys
30 deposited in this fund shall be administered by the Scholarshare
31 Investment Board, and shall be available, upon appropriation in
32 the annual Budget Act or in another statute, for distribution or
33 encumbrance by the board pursuant to Article 21.5 (commencing
34 with Section 70010) of Chapter 2 of Part 42 of the Education
35 Code.

36 (d) The department shall deduct its costs to administer, but not
37 to develop, the California memorial license plate program. The
38 department may utilize an amount of money, not to exceed fifty
39 thousand dollars (\$50,000) annually, derived from the issuance,
40 renewal, transfer, and substitution of California memorial license

1 plates for the continued promotion of the California memorial
2 license plate program of this section.

3 (e) “Antiterrorism activities” means activities related to the
4 prevention, detection, and emergency response to terrorism that
5 are undertaken by state and local law enforcement, fire
6 protection, and public health agencies. The funds provided for
7 these activities, to the extent that funds are available, shall be
8 used exclusively for purposes directly related to fighting
9 terrorism. Eligible activities include, but are not limited to, hiring
10 support staff to perform administrative tasks, hiring and training
11 additional law enforcement, fire protection, and public health
12 personnel, response training for existing and additional law
13 enforcement, fire protection, and public health personnel, and
14 hazardous materials and other equipment expenditures.

15 (f) Beginning January 1, 2007, and each January 1 thereafter,
16 the department shall determine the number of currently
17 outstanding and valid California memorial license plates. If that
18 number is less than 7,500 in any year, then the department shall
19 no longer issue or replace those plates.

20 ~~SECTION 1. Section 13955 of the Government Code is~~
21 ~~amended to read:~~

22
23
24 ***All matter omitted in this version of the bill***
25 ***appears in the bill as introduced in the***
26 ***Senate, February 22, 2005 (JR11)***
27